

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB544)

Received: 10/25/1999

Received By: mdsida

Wanted: Soon

Identical to LRB:

For: David Travis (608) 266-5340

By/Representing: Bill Graf

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Alt. Drafters:

Subject: Correctional System - prisons

Extra Copies: jeo

Pre Topic:

No specific pre topic given

Topic:

Requiring prevailing wage to be paid in constructing prisons leased for use by department of corrections

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
I?	mdsida 10/27/1999	j geller 10/27/1999		_____			
/1			hhagen 10/27/1999	_____	lrb-docadmin 10/27/1999	lrb-docadmin 10/27/1999	

FE Sent For:

<END>

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I?	mdsida	11/27 Jg	11/27	11/27			

FE Sent For:

<END>



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBa08002

MGD:.....

JLg

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT,

TO 1999 ASSEMBLY BILL 544

by 10:00 am  
10/27

TWX.

Insert 1/1  
1/2  
1/8

At the locations indicated, amend the bill as follows:

- # Page 1, line 4: delete "SECTION 1" and substitute
- 1. Page 2, line 6: after that line insert:

**SECTION 2x. 301.235 (2) (dm)** of the statutes is created to read:

301.235 (2) (dm) The department may not lease any building or any portion of a building under this section unless the construction or conversion of the building began before October 1, 1999, or unless the lessor has done what would be required met the requirements of that would apply under s. 20.924 (1) (i) if the building or the portion of the building were being leased by the building commission."

(END) ✓

CS  
"SECTION 1t"  
into a correctional facility

or the portion of the building being leased

Inserts

LFB:.....Bauer (DS) - Privately constructed correctional facilities  
FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION  
AMENDMENT  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

1/1  
② Fix component  
③ Fix component

1. Page 122, line 10: after that line insert:

“SECTION 13.48 (19) of the statutes is renumbered 13.48 (19) (a) and

4 amended to read:

5 13.48 (19) Whenever the building commission determines that the use of  
6 innovative types of design and construction processes will make better use of the  
7 resources and technology available in the building industry, the building commission  
8 may waive any or all of s. 16.855 if such action is in the best interest of the state and  
9 if the waiver is accomplished through formal action of the building commission. The  
10 Subject to the requirements of par. (b) and s. 20.924 (1) (i), the building commission

↓

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may authorize the lease, lease purchase or acquisition of such facilities constructed in the manner authorized by the building commission. The Subject to the requirements of par. (b) and s. 20.924 (1) (i), the building commission may also authorize the lease, lease purchase or acquisition of existing facilities in lieu of state construction of any project enumerated in the authorized state building program.

~~SECTION 3f. 13.48 (19) (b) of the statutes is created to read:~~

~~13.48 (19) (b) The building commission may not lease or acquire a building, structure or facility for the purpose of confining persons serving a sentence of imprisonment to the Wisconsin state prisons under ch. 973 unless the person who undertakes construction or conversion of the building, facility or structure has met the requirements of s. 301.19 (2) and has complied with the agreement under s.~~

~~20.924 (1) (i). This paragraph does not apply if the construction or conversion of the building, structure or facility began before October 1, 1999.~~

SECTION 3f. 13.48 (27) of the statutes is amended to read:

13.48 (27) LEASE OF CORRECTIONAL FACILITIES. The Subject to sub (19)(b) and s. 20.924 (1) (i), the building commission may lease any facility meeting the requirements of s. 301.19(2) for use of the department of corrections as a part of the authorized state building program, with an option to purchase the facility by the state. Any lease shall provide for the facility to be constructed in accordance with requirements and specifications approved by the department of administration and shall permit inspection of the site and facility by agents of the department.”.

2. Page 491, line 9, after that line insert:

SECTION 649m. 20.924 (1) (i) of the statutes is created to read:

20.924 (1) (i) Shall not <sup>lease or</sup> authorize the ~~acquisition or~~ leasing of any building, structure or facility, or portion thereof, ~~under s. 301.19(2)(a)~~, for initial occupancy



INS 1-2  
cont

unless the construction of the building, structure or facility began before October 1, 1999, or

1 by the department of corrections for the purpose of confining persons serving a  
2 sentence of imprisonment to the Wisconsin state prisons under ch. 973, unless the

3 ~~seller or~~ lessor agrees as follows: *has done all of the following:*

4 1. Not ~~to~~ permit any employe working on the building, structure or facility, or  
5 portion thereof, who would be entitled to receive the prevailing wage rate under s.  
6 103.49 and who would not be required or permitted to work more than the prevailing  
7 hours of labor, if the building, structure or facility, or portion thereof, were a project  
8 of public works subject to s. 103.49, to be paid less than the prevailing wage rate or  
9 to be required or permitted to work more than the prevailing hours of labor, except  
10 as permitted under s. 103.49 (2).

11 2. ~~To~~ require any contractor, subcontractor or agent thereof performing work  
12 on the building, structure or facility, or portion thereof, to keep and permit inspection  
13 of records in the same manner as a contractor, subcontractor or agent thereof  
14 performing work on a project of public works that is subject to s. 103.49 is required  
15 to keep and permit inspection of records under s. 103.49 (5).

16 3. Otherwise@ comply with s. 103.49 in the same manner as a state agency  
17 contracting for the erection, construction, remodeling, repairing or demolition of a  
18 project of public works is required to comply with s. 103.49 and to require any  
19 contractor, subcontractor or agent thereof performing work on the building,  
20 structure or facility, or portion thereof, to comply with s. 103.49 in the same manner  
21 as a contractor, subcontractor or agent thereof performing work on a project of public  
22 works that is subject to s. 103.49 is required to comply with s. 103.49.

23 ~~3. Page 979, line 6: after that line insert:~~

24 ~~SECTION 20301a.~~ 109.09 (1) of the statutes is amended to read:

(B) 2g



INS

CONT

109.09 (1) The department shall investigate and attempt equitably to adjust controversies between employers and employes as to alleged wage claims. The department may receive and investigate any wage claim which is filed with the department, or received by the department under s. 109.10 (4), no later than 2 years after the date the wages are due. The department may, after receiving a wage claim, investigate any wages due from the employer against whom the claim is filed to any employe during the period commencing 2 years before the date the claim is filed. The department shall enforce this chapter and ss. 20.924 (1) (i) 1., 2. and 3., 66.293, 103.02, 103.49, 103.82 and 104.12. In pursuance of this duty, the department may sue the employer on behalf of the employe to collect any wage claim or wage deficiency and ss. 109.03 (6) and 109.11 (2) and (3) shall apply to such actions. Except for actions under s. 109.10, the department may refer such an action to the district attorney of the county in which the violation occurs for prosecution and collection and the district attorney shall commence an action in the circuit court having appropriate jurisdiction. Any number of wage claims or wage deficiencies against the same employer may be joined in a single proceeding, but the court may order separate trials or hearings. In actions that are referred to a district attorney under this subsection, any taxable costs recovered by the district attorney shall be paid into the general fund of the county in which the violation occurs and used by that county to meet its financial responsibility under s. 978.13 (2) for the operation of the office of the district attorney who prosecuted the action.

4. Page 980, line 7, after that line insert:

SECTION 2032m. 111.322 (2m) (c) of the statutes is amended to read:

(B) 2k



INS 1-2 cont

1 111.322 (2m) (c) The individual files a complaint or attempts to enforce a right  
2 under s. 20.924 (1) (i) 1., 2. or 3., 66.293 or 103.49 or testifies or assists in any action  
3 or proceeding under s. 20.924 (1) (i) 1., 2. or 3., 66.293 or 103.49.e

4 ~~5. Page 1102, line 15: after that line insert:~~

5 ~~SECTION 2673r.~~ <sup>2r</sup> 227.01 (13) (t) of the statutes is amended to read:

6 227.01 (13) (t) Ascertain and determines prevailing wage rates and prevailing  
7 hours of labor under ~~ss. s. 20.924 (1) (i) 1., 2. or 3.,~~ 66.293, 103.49 ~~and or~~ 103.50, except that  
8 any action or inaction which ascertain and determines prevailing wage rates and  
9 prevailing hours of labor under ~~ss. s. 20.924 (1) (i) 1., 2. or 3.,~~ 66.293, 103.49 ~~and or~~ 103.50  
10 is subject to judicial review under s. 227.40.

end 1/2  
↓  
10

11 ~~6. Page 1208, line 4: after that line insert:~~

12 ~~"SECTION 2698g. 301.18 (lg) of the statutes is created to read:~~

13 ~~301.18 (lg) The department of administration may acquire or lease~~  
14 ~~correctional facilities under 1999 Wisconsin Act . . . (this act), section 9111(4xt) (b).~~

15 ~~SECTION 2698L. 301.19 of the statutes is created to read:~~

16 ~~**301.19 Construction of correctional facilities by private persons. (1)**~~

17 ~~In this section:~~

18 ~~(a) "Authorized jurisdiction" means a county, a group of counties acting under~~  
19 ~~s. 302.44, the United States or a federally recognized American Indian tribe or band~~  
20 ~~in this state.~~

21 ~~(b) "Correctional facility" means a prison, jail, house of correction or lockup~~  
22 ~~facility but does not include an institution or facility or a portion of an institution or~~  
23 ~~facility that is used solely to confine juveniles alleged or found to be delinquent under~~  
24 ~~ch. 48, 1993 stats., or ch. 938.~~



1 (2) No private person may commence construction of a correctional facility or  
2 commence conversion of an existing building, structure or facility into a correctional  
3 facility unless all of the following requirements are met:

4 (a) The building commission has authorized the lease or acquisition of the  
5 building, structure or facility by the state upon the completion of the construction or  
6 conversion.

7 (b) The building, structure or facility is enumerated in the authorized state  
8 building program.

9 (c) The private person agrees to comply with s. 20.924 (1) (i) 1, 2, and 3.

10 (3) Subsection (2) does not apply to buildings, structures or facilities that are  
11 constructed or converted under a contract with and for use by an authorized  
12 jurisdiction."

13 7. Page 1208, line 10: after that line insert:

14 "SECTION 2699m. 301.235 (2) (e) of the statutes is amended to read:

15 301.235 (2) (e) All laws, except s. 20.924(1)(i) and ch. 150, conflicting with this  
16 section are, insofar as they conflict with this section and no further, superseded by  
17 this section."

18 8. Page 1353, line 18: after that line insert:

19 "SECTION 3191d. 946.15 (1) of the statutes is amended to read:

20 946.15 (1) Any employer, or any agent or employe of an employer, who induces  
21 any person who seeks to be or is employed pursuant to a public contract as defined  
22 in s. 66.29 (1) (c) or who seeks to be or is employed on a project on which a prevailing  
23 wage rate determination has been issued by the department of workforce  
24 development under s. 20.924 (1) (i), 66.293 (3), 103.49 (3) or 103.50 (3) or by a local

insert 1/8

3 2  
3d



INS 1-8 cont

1 governmental unit, as defined in s. 66.293 (1) (d), under s. 66.293 (6) to give up, waive  
 2 or return any part of the compensation to which that person is entitled under his or  
 3 her contract of employment or under the prevailing wage rate determination issued  
 4 by the department or local governmental unit, or who reduces the hourly basic rate  
 5 of pay normally paid to an employe for work on a project on which a prevailing wage  
 6 rate determination has not been issued under s. ~~20.924 (1) (i)~~ 66.293 (3) or (6),  
 7 103.49 (3) or 103.50 (3) during a week in which the employe works both on a project  
 8 on which a prevailing wage rate determination has been issued and on a project on  
 9 which a prevailing wage rate determination has not been issued, is guilty of a Class E  
 10 felony

3e

SECTION ~~31.914~~ 946.15 (2) of the statutes is amended to read:

12 946.15 (2) Any person employed pursuant to a public contract as defined in s.  
 13 66.29 (1) (c) or employed on a project on which a prevailing wage rate determination  
 14 has been issued by the department of workforce development under s. 20.924 (1) (i)  
 15 ~~66.293 (3)~~, 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in  
 16 s. 66.293 (1) (d), under s. 66.293 (6) who gives up, waives or returns to the employer  
 17 or agent of the employer any part of the compensation to which the employe is  
 18 entitled under his or her contract of employment or under the prevailing wage  
 19 determination issued by the department or local governmental unit, or who gives up  
 20 any part of the compensation to which he or she is normally entitled for work on a  
 21 project on which a prevailing wage rate determination has not been issued under s.  
 22 20.924 (1) (i) ~~66.293 (3) or (6)~~, 103.49 (3) or 103.50 (3) during a week in which the  
 23 person works part-time on a project on which a prevailing wage rate determination  
 24 has been issued and part-time on a project on which a prevailing wage rate  
 25 determination has not been issued, is guilty of a Class C misdemeanor.



03f

INS 1-8 cont

1 SECTION- 946.15 (3) of the statutes is amended to read:

2 946.15 (3) Any employer or labor organization, or any agent or employe of an  
 3 employer or labor organization, who induces any person who seeks to be or is  
 4 employed on a project on which a prevailing wage rate determination has been issued  
 5 by the department of workforce development under s. ~~20.924~~ (i) <sup>3</sup> 66.293 (3),  
 6 103.49 (3) or 103.50 (3) or by a local governmental unit, as defined in s. 66.293 (1) (d),  
 7 under s. 66.293 (6) to permit any part of the wages to which that person is entitled  
 8 under the prevailing wage rate determination issued by the department or local  
 9 governmental unit to be deducted from the person's pay is guilty of a Class E felony,  
 10 unless the deduction would be permitted under 29 CFR 3.5 or 3.6 from a person who  
 11 is working on a project that is subject to 40 USC 276c.

12 SECTION <sup>39</sup> ~~3191g~~. 946.15 (4) of the statutes is amended to read:

13 946.15 (4) Any person employed on a project on which a prevailing wage rate  
 14 determination has been issued by the department of workforce development under  
 15 s. ~~20.924~~ (1) (i) <sup>3</sup> 66.293 (3), 103.49 (3) or 103.50 (3) or by a local governmental unit,  
 16 as defined in s. 66.293 (1) (d), under s. 66.293 (6) who permits any part of the wages  
 17 to which that person is entitled under the prevailing wage rate determination issued  
 18 by the department or local governmental unit to be deducted from his or her pay is  
 19 guilty of a Class C misdemeanor, unless the deduction would be permitted under 29  
 20 CFR 3.5 or 3.6 from a person who is working on a project that is subject to 40 USC  
 21 276c."

22 9. Page 1404, line 21: after that line insert: -

23 "(4xt) PRIVATE CORRECTIONAL FACILITIES.

end  
1/8  
↓

1 (a) *Definition.* In this subsection, "private correctional facility" means, along  
2 with the land on which it is situated, a building, structure or facility meeting all of  
3 the following requirements:

4 1. The building, structure or facility has been or is being constructed on the  
5 effective date of this subdivision.

6 2. The building, structure or facility has been or is being constructed for the  
7 confinement of one or more individuals who, as a result of a court order from any  
8 jurisdiction, are in custody for the commission or alleged commission of a crime and  
9 who would be classified as medium or maximum security under the department of  
10 corrections' security classification system.

11 3. The building, structure or facility has not been and is not being constructed  
12 under a contract with the department of administration, a county, a group of counties  
13 acting under section 302.44 of the statutes, the department of corrections and any  
14 county or group of counties acting under section 302.45 of the statutes, the United  
15 States or a federally recognized American Indian tribe or band in this state.

16 (b) *Acquisition or lease of private correctional facilities.* The department of  
17 administration shall, no later than the 30th day after the effective date of this  
18 paragraph, commence efforts to negotiate with the owner of each private correctional  
19 facility located in this state to purchase the facility or to lease the facility. If the  
20 department reaches an agreement to purchase or lease the facility, the purchase or  
21 lease is subject to approval of the building commission and the joint committee on  
22 finance. If the department is unable to reach an agreement with the owner, the  
23 building commission may, notwithstanding section 13.48 (16) of the statutes, acquire  
24 the private correctional facility by condemnation under section 32.06 of the statutes,  
25 except that this paragraph constitutes the determination of the necessity of taking

1 for the purposes of section 32.06 (1) of the statutes. Section 13.48 (19) (b) of the  
2 statutes, as created by this act, does not apply to the lease or acquisition of a private  
3 correctional facility under this paragraph.

4 (c) *Returning prisoners from out-of-state facilities.* The department of  
5 corrections shall use the increase in beds resulting from any lease or acquisition of  
6 private correctional facilities under paragraph (b) to reduce its reliance on contracts  
7 for the transfer and confinement of Wisconsin prisoners in other states under section  
8 301.21 of the statutes and to return to correctional facilities in Wisconsin prisoners  
9 who are confined in other states under those contracts.

10 (d) *Inapplicability to juvenile facilities.* This subsection does not apply to a  
11 building, structure or facility that has been or is being constructed solely to confine  
12 juveniles alleged or found to be delinquent.”.

13 10 . Page 1450, line 5: after that line insert:

14 “(4xt) CONSTRUCTION OF CORRECTIONAL FACILITIES BY PRIVATE PERSONS. The  
15 treatment of sections 20.924 (1) (i) and 301.19 of the statutes first applies to contracts  
16 for the construction of a correctional facility, or for the conversion of an existing  
17 building, structure or facility into a correctional facility entered into, or extended,  
18 modified or renewed, on the effective date of this subsection or, if such construction  
19 or conversion is commenced without a contract, the treatment of those sections first  
20 applies to such construction or conversion commenced on the effective date of this  
21 subsection.”.

22 (END)